

COMMITTEE OF THE WHOLE


11-0434R

RESOLUTION AMENDING RESOLUTION 09-0007, AS AMENDED, RETAINING MAKI AND OVEROM, CHARTERED, INCREASING THE AMOUNT BY \$300,000 FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$1,060,000.

CITY PROPOSAL:

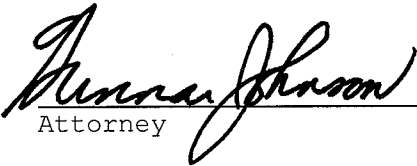
RESOLVED, that the city council hereby amends Resolution 09-0007, as amended, retaining Maki and Overom, Chartered, to provide legal services to the city related to a gaming matter, increasing the amount by \$300,000 for a new total amount not to exceed \$1,060,000, payable from Fund 256-030-5304 (Community Investment Trust Fund, Finance, Legal Services), and authorizes the proper city officials to execute a fifth amendment to professional services agreement substantially the same as that on file in the office of the city clerk as Public Document No. \_\_\_\_\_.

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ADM/ATTY GBJ:cjk 8/9/2011

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to execute a fifth amendment to professional services agreement with Maki and Overom, Chartered, and amends Resolution 09-0007, as amended, for a new total amount of not to exceed \$1,060,000. This increase for services is necessary as the outcome of the current litigation and future negotiations will define the nature of the City's agreement with the Fond du Lac Band for the next 25 years. The payments will be drawn from the community investment trust fund as authorized by Section 54(e) of the City Charter. The resolution must be approved by a 7/9 vote.

**FIFTH AMENDMENT TO  
AGREEMENT FOR PROFESSIONAL SERVICES  
CITY OF DULUTH  
ATTORNEY SERVICES – INDEPENDENT CONTRACTOR  
MAKI AND OVEROM, CHARTERED**

This Fifth Amendment to that certain Agreement for Professional Services (“Agreement”) between the City of Duluth, Minnesota (“City”) and Maki and Overom, Chartered (“Attorney”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between the City of Duluth, a municipal corporation and Maki and Overom, Chartered.

**RECITALS**

WHEREAS, the City desires to utilize Attorney’s professional services to provide legal services related to gaming matter; and

WHEREAS, City and Attorney entered into an Agreement for Professional Services approved by City Council Resolution 09-0007 on January 12, 2009; and

WHEREAS, City and Attorney entered into a First Amendment to Agreement approved by City Council Resolution 09-0539 on August 24, 2009; and

WHEREAS, City and Attorney entered into a Second Amendment to Agreement approved by City Council Resolution 10-0064 on January 25, 2010; and

WHEREAS, City and Attorney entered into a Third Amendment to Agreement approved by City Council Resolution 10-0514 on October 25, 2010; and

WHEREAS, City and Attorney entered into a Fourth Amendment to Agreement approved by City Council Resolution 10-0656 on December 20, 2010; and

WHEREAS, City has a need for services in excess of that maximum fee set forth on Exhibit A of the Agreement as amended.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Attorney hereby agree as follows:

- A. Attorney will continue to provide the services identified in the Agreement.
- B. It is agreed that the maximum fee for the term of the Agreement as set forth on Exhibit A of the Agreement shall be increased by Three Hundred Thousand Dollars

(\$300,000), for a new total amount not to exceed One Million Sixty Thousand Dollars (\$1,060,000) or as further approved by resolution of the Duluth City Council.

C. All other terms and conditions of the Agreement shall remain in full force and effect

IN WITNESS WHEREOF, the City and Attorney have executed this contract as of the date first written above.

CITY OF DULUTH,

MAKI AND OVEROM, CHARTERED

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Its: \_\_\_\_\_

Attest \_\_\_\_\_  
City Clerk

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

\_\_\_\_\_  
City Attorney